

April 30, 2009

Municipal Permit Comments  
Washington State Department of Ecology  
Water Quality Program  
PO Box 47696  
Olympia WA 98504-7696

Subject: Recommended Permit Modifications for NPDES Western Washington Phase II  
Municipal Stormwater General Permit

Dear Ecology Staff:

The following are the City of Issaquah's comments regarding the March 18, 2009 Permit Modifications for the subject permit. Issaquah recommends these be incorporated into the modified permit.

**1. S5.C.4. ORDINANCE FOR CONTROLLING RUNOFF FROM NEW DEVELOPMENT, REDEVELOPMENT, AND CONSTRUCTION SITES**

Ecology proposes an effective date of November 16, 2009 for the controlling runoff ordinance required to be adopted by August 15, 2009. Issaquah concurs with Ecology's proposal to provide several months between the ordinance adoption date and ordinance effective date. This is a normal process when code changes occur that is justified for a variety of reasons.

However, Issaquah requests Ecology that the NPDES Phase II permit deadline of August 16, 2009 be extended for all requirements under Section S5.C.4 to a date that is after completion of the NPDES Phase I and II permit modification process and after the date when Phase I stormwater manuals are approved and can be adopted by Phase II jurisdictions. Up to twelve months should be allowed between the time when these actions are completed and the date of when ordinance adoption is required.

Reasons for extending the ordinance adoption date include the following:

- Given that the Phase II permit is undergoing modification, deadlines in the permit should be adjusted accordingly to allow the permittees adequate time to implement the requirements. These extensions to deadlines should be equivalent to the times allowed in the original permit.
- Ecology intentionally allowed for a one year time period between when the Phase I jurisdictions storm water manual would be deemed equivalent (August 16, 2008) and the Phase II jurisdictions had to implement the requirements related to controlling runoff from new development, redevelopment and construction sites (August 16, 2009). Due to the Phase I communities not completing their equivalency requirements by August 16, 2008 as required by the Phase I permit, and the PCHB decision, the Phase II communities have not had the

originally intended one-year time period to utilize a Phase I jurisdictions manual and program to meet section S5.C.4 of the Phase II permit.

- The Board's decision to leave the one-acre threshold in effect was made in February 2009 and requires additional time and steps in an already tight code adoption process.
- Adequate time is needed for public review and comment periods related to new policy issues presented under the PCHB decision.
- Analysis of potential equivalent Phase I Stormwater Manuals has been delayed and challenging because manuals became available to Phase II permittees at varying times, equivalency status was unclear and generally requires analysis of associated codes and policies in addition to the manuals.
- Time is needed to revise existing municipal stormwater management and construction standards, permit applications and submittal requirements, internal permit review, inspection and documentation procedures including those for low impact development best management practices, training, and local development community outreach

## **2. S5.C.3.B. ALLOWABLE DISCHARGES**

Under Section S5.C.3.b of the Permit Ecology lists prohibited and allowed discharges that must be identified in an ordinance. As written it can be interpreted that the Permit does not allow any discharge from municipal operations other than those specifically listed (streets, sidewalks and building cleaning). To avoid potential conflicts between permits and avoid ambiguity in our water quality code, it should be made clear that discharges allowed under the Permit are allowed. The second from the last bullet on Page 13 of the permit should be modified as follows (i.e., discharges that are not prohibited):

- *Non-stormwater discharges covered by this permit, another NPDES permit, or other appropriate State or Federally permit or authorization.*

## **3. ANNUAL REPORT DOCUMENTATION**

Ecology is soliciting input to improve performance and reduce permit implementation costs. While the focus appears to be on modifying interim guidelines, after recently going through the process of updating the SWMP and completing the Annual Report for 2008, the City would like to suggest that Ecology reconsider the extensive recordkeeping and reporting requirements in the Annual Report that have relatively little value for documenting permit compliance. This is especially important given the fact that few cities are hiring new staff to administer Ecology's permit, which is an unfunded mandate. The City would like to propose that instead of annual reporting requirements, Ecology should conduct occasional evaluations on the effectiveness of the entire Phase II permit program, such as at every permit term, using an independent evaluator that conducts field visits and interviews staff. This would do a much better job of evaluating compliance with the permit and effectiveness of the programs.

### **A. Public Education and Outreach**

Annual Report items 6b and 7b require that each separate target audience be identified and that the number of public education and outreach activities implemented be counted and provided each year.

Comment: Providing information about which audiences are targeted does not provide any indication of the effectiveness of the information. The City suggests that the responsible department keep these records internally. The annual reporting requirement may lead permittees to count as many activities as possible, instead of concentrating on quality. Providing a number leads staff to want to include a high number, but does nothing to address whether behavior is being changed and water quality is being improved. Given that conducting a credible and accurate analysis on this subject is a very expensive and complicated project, a more meaningful approach would be to conduct this on a region-wide basis.

#### B. Illicit Discharge Detection and Elimination

Annual Report items 31b through 34b require that the City provide numbers on the type and number of spills, illicit discharges, and inspections.

Comment: This is another example where providing these numbers on an annual basis adds a recordkeeping burden that does not address the effectiveness of the City's program. The permit requires that the City keep records of inspections and follow-up activities. Compiling this information on an annual basis does not address the effectiveness of the IDDE program.

#### C. Controlling Runoff from New Development, Redevelopment and Construction Sites.

Annual Report items 55 through 66 require that the City count the number of stormwater site plans reviewed, the number of sites inspected prior to clearing and construction, the number of site inspections done during construction, and the number of enforcement actions taken, and more.

Comment: This is another example where numbers do not address the effectiveness of the program. The number of stormwater plans reviewed does nothing to address whether the jurisdiction is in compliance with the adopted manual. The only way to address whether the erosion and sediment control program is adequate is to visit construction sites. The City prefers to have its inspectors in the field as much as possible, and minimize the time spent recordkeeping.

For each of these examples, the City suggests that due to the very limited resources available to implement the Stormwater Management Program, staff time would be more effective in reducing the pollutants in stormwater runoff, by determining how to change targeted behaviors, investigating illicit discharges, inspecting and maintaining City and private stormwater facilities, and enforcing erosion and sediment control at construction sites, (along with the other permit requirements) instead of spending the significant amount of administrative time maintaining and compiling records for submittal in the Annual Reports.

### 4. EMERGING TECHNOLOGIES FOR WATER QUALITY TREATMENT

The City of Issaquah has very few options under Ecology's treatment menus for water quality treatment because of our local adoption of the phosphorus (Lake Protection) standard. Of the conventional treatment technologies, only large wet ponds and sand filters are approved for

phosphorus treatment. Since the City will no longer accept sand filters because of the excessive amount of maintenance needed to keep them functioning, this leaves only large wetponds. However, the flat topography and shallow groundwater in the Issaquah Valley floor present many engineering challenges to designing and constructing large ponds, making them either infeasible or excessively expensive.

The emerging technologies process allowed in the Ecology manual is intended to allow new technologies for water treatment to be used instead of these conventional methods. These technologies are much more adaptable to urban areas such as Issaquah. However, of the emerging technologies allowed under the TAPE program only one has a general use designation for phosphorus treatment (Ecology embankment, which isn't very applicable to urban sites). Issaquah has talked with several manufacturers of treatment devices about their desire to get their products approved under the TAPE program, but they are frustrated that the program no longer is accepting applications due to a shortage of staff at Ecology. In our view the emerging technologies are essential for meeting the water quality treatment requirements of the Phase II permit because they can be much more effective than traditional methods such as large wetponds and sand filters, and are much more feasible for redevelopment projects in urban areas.

The City requests that Ecology provide increased flexibility for jurisdictions to allow use of new treatment technologies for stormwater. We understand that the TAPE approval process is proposed to be delegated to a private organization. We support that proposal, as long as Ecology moves quickly to approve it and it results in a more efficient and effective process.

The City appreciates this opportunity to improve the effectiveness of the Phase II permit. We look forward to Ecology's response to these comments and hope they will be incorporated into the revised permit.

Sincerely  
PUBLIC WORKS ENGINEERING DEPARTMENT

A handwritten signature in dark ink, appearing to read "Kerry Ritland", with a long horizontal flourish extending to the right.

Kerry Ritland, PE  
Surface Water Manager

cc Bob Brock, Director  
Sheldon Lynne, Deputy Director